

SENATE BILL No. 442

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3.

Synopsis: Alcoholic beverage displays. Defines "grocery store" for purposes of the law concerning alcohol and tobacco. Allows the alcohol and tobacco commission to renew or transfer ownership of a beer dealer's permit for a beer dealer who: (1) held a permit before July 1, 2007; and (2) does not qualify for a permit as a grocery store under the definition of "grocery store". Requires a dealer permittee (other than a package liquor store) to display alcohol in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age.

Effective: July 1, 2007.

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January 11, 2007, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 442

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. (a) "Grocery store" means a store or a part of a store that:**

(1) has the primary North American Industry Classification System (NAICS) classification 445110 or 452910; and

(2) is primarily engaged in the retail sale of a general food line, which may include:

(A) canned and frozen foods;

(B) dry goods, including tea, coffee, sugar, and flour;

(C) fresh fruits and vegetables; and

(D) fresh and prepared meats.

(b) The term does not include a store that has less than two hundred fifty thousand dollars (\$250,000) in annual gross sales of food, excluding the following:

(1) Candy, confectionaries, and chewing gum.

(2) Alcoholic beverages.



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(3) Cocktail mixers.

(4) Soft drinks, sodas, and other similar beverages.

(5) Medicines, tonics, vitamins, and other dietary supplements.

(6) Water (except natural spring water), mineral water, carbonated water, and ice.

(7) Pet food.

(8) Food furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant.

(9) Meals served by a retail merchant off the merchant's premises.

(10) Food sold by a retail merchant who ordinarily bags, wraps, or packages the food for immediate consumption on or near the merchant's premises, including food sold on a "take out" or "to go" basis.

(11) Food sold through a vending machine.

(12) Tobacco products.

SECTION 2. IC 7.1-3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The holder of a beer dealer's permit shall be entitled to purchase beer for sale under the permit only from a permittee entitled to sell to a beer dealer under this title.

(b) A beer dealer shall be entitled to possess beer and sell it at retail to a customer in permissible containers only.

(c) A beer dealer may not sell beer by the drink nor for consumption on the licensed premises nor shall a beer dealer allow it to be consumed on the licensed premises.

(d) Except as provided in subsection ~~(c)~~, (f), a beer dealer shall be entitled to sell beer to a customer and to deliver it in permissible containers to the customer on the licensed premises, or to the customer's residence or office.

(e) This subsection does not apply to a package liquor store. Beer shall be displayed in a designated area separated from the area where nonalcoholic retail merchandise is displayed. A minor may not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age. The designated area shall be monitored by an employee who, as part of the employee's job responsibilities, shall ensure that a minor does not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age.

(f) A beer dealer shall not be entitled to sell and deliver beer on the street or at the curb outside the licensed premises, nor shall a beer

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dealer be entitled to sell beer at a place other than the licensed premises. A beer dealer shall not be entitled to sell beer and deliver beer for carry-out, or for delivery to a customer's residence or office, in a quantity that exceeds eight hundred sixty-four (864) ounces in a single transaction. However, notwithstanding IC 7.1-5-10-11, a beer dealer who is licensed pursuant to IC 7.1-3-10-4 shall be entitled to sell and deliver warm or cold beer for carry-out, or for delivery to a customer's residence, office, or a designated location in barrels or other commercial containers that do not exceed two thousand sixteen (2,016) ounces per container. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

~~(c)~~ (g) Unless a beer dealer is a grocery store or drug store, a beer dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A beer dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 3. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Notwithstanding IC 7.1-1-3-18.5, the commission may renew or transfer ownership of a beer dealer's permit for a beer dealer who:**

(1) held a permit before July 1, 2007; and

(2) does not qualify for a permit as a grocery store under IC 7.1-1-3-18.5.

SECTION 4. IC 7.1-3-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The holder of a liquor dealer's permit shall be entitled to purchase liquor only from a permittee entitled to sell to a liquor dealer under this title.

(b) A liquor dealer shall be entitled to possess liquor and sell it at retail in its original package to a customer only for consumption off the licensed premises.

(c) This subsection does not apply to a package liquor store. Liquor shall be displayed in a designated area separated from the area where nonalcoholic retail merchandise is displayed. A minor may not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age. The designated area shall be monitored by an employee who, as part of the employee's job responsibilities, shall ensure that a minor does not enter the

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designated area without a parent or guardian who is at least twenty-one (21) years of age.

~~(c)~~ (d) A liquor dealer may deliver liquor only in permissible containers to a customer's residence or office in a quantity that does not exceed twelve (12) quarts at any one (1) time. However, a liquor dealer who is licensed under IC 7.1-3-10-4 may deliver liquor in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

~~(d)~~ (e) A liquor dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. However, a liquor dealer that is a drug store may sell prescription drugs and health and beauty aids through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 5. IC 7.1-3-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The holder of a wine dealer's permit shall be entitled to purchase wine only from a permittee who is authorized to sell to a wine dealer under this title. A wine dealer shall be entitled to sell wine for consumption off the licensed premises only and not by the drink.

(b) This subsection does not apply to a package liquor store. Wine shall be displayed in a designated area separated from the area where nonalcoholic retail merchandise is displayed. A minor may not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age. The designated area shall be monitored by an employee who, as part of the employee's job responsibilities, shall ensure that a minor does not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age.

~~(b)~~ (c) A wine dealer shall be entitled to sell wine in permissible containers in a quantity of not more than three (3) standard cases, as determined under the rules of the commission, in a single transaction. However, a wine dealer who is licensed under IC 7.1-3-10-4 may possess wine and sell it at retail in its original package to a customer only for consumption off the licensed premises.

~~(c)~~ (d) Unless a wine dealer is a grocery store or drug store, a wine dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A wine dealer that is a grocery store or drug

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1 store may sell any item except alcoholic beverages through a window
2 in the licensed premises to a person who is outside the licensed
3 premises.
4 ~~(d)~~ (e) However, a wine dealer who is licensed under IC 7.1-3-10-4
5 may deliver wine only in permissible containers to a customer's
6 residence, office, or designated location. This delivery may only be
7 performed by the permit holder or an employee who holds an employee
8 permit. The permit holder shall maintain a written record of each
9 delivery for at least one (1) year that shows the customer's name,
10 location of delivery, and quantity sold.

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